

## **Review of Utility Company Request for New Conduit/Pole Location**

**Applicant Information**

Utility      Gas      Electric      Telephone

(circle one)      Other

Reason      Install Wireless Small Cell Facility on an

Existing Utility Pole in the Public Right of  
Way

**Project Address**

Utility Pole #5 Near 56 Oak St

Lowell, MA

Date Submitted March 17,2020

Review done by Richard Biagini

**Sidewalk Material**

**Note: material to be replaced in kind (Concrete in full panels)**

Concrete      Asphalt      Other

Sidewalk Vaults present      Y      N

Work on Street under a Paving Moratorium      Y      N

Is this location within the Flood Plain?      Y      N

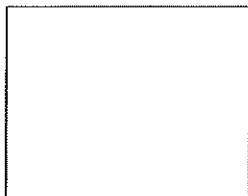
Are ADA requirements being met?      Y      N

**Comments**

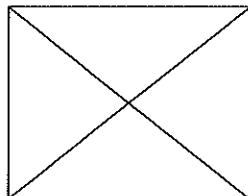
1. Contractor shall notify abutters at least 72 hours prior to beginning work.

**Outcome of Review**

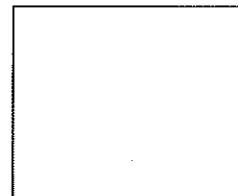
Approved



Approved With  
Comments



Denied



John Gleason, Interim City  
Engineer

# brownrudnick

Edward D. Pare, Jr., Esq.  
direct dial: 401-276-2639  
epare@brownrudnick.com

February 3, 2020

City Council  
City of Lowell  
c/o City Clerk  
Lowell City Hall  
375 Merrimack Street  
1st Floor, Room 31  
Lowell, MA 01852

Christine Clancy, P.E.  
City Engineer  
City of Lowell  
Lowell City Hall  
375 Merrimack Street  
3rd Floor, Room 61  
Lowell, MA 01852

**RE: Application of New Cingular Wireless PCS, LLC (d/b/a AT&T) for a Grant of Location for a Wireless Small Cell Facility, Including Telecommunication Wires and Wireless Attachments and Appurtenances on a Replacement Utility Pole in the Public Right of Way at the Following Location:**

**Pole #5 - Near 56 Oak Street, Lowell, MA 01852**

Dear Honorable Members of the Lowell City Council:

As you may recall, we represent New Cingular Wireless PCS, LLC (d/b/a "AT&T") with respect to its deployment of small cell facilities in the City of Lowell and the Commonwealth of Massachusetts. AT&T is licensed by the Federal Communications Commission (the "FCC") to provide wireless communications services in the City of Lowell and throughout the Commonwealth of Massachusetts.

On behalf of AT&T and while reserving all rights, please accept this submission as an application for approval for a grant of location (the "Application") for one (1) small cell facility on an existing utility pole located in the public right of way near the above referenced address (the "Site"). The Application is filed pursuant to the federal Telecommunications Act of 1996 (the "Act"), the Declaratory Ruling and Third Report and Order 18-133 (the "Order") issued by the FCC in September 2018 [https://docs.fcc.gov/public/attachments/FCC-18-133A1\\_Rcd.pdf](https://docs.fcc.gov/public/attachments/FCC-18-133A1_Rcd.pdf) and Massachusetts General Laws Chapter 166, Sections 21, 22 and 25A for telecommunication wires and wireless attachments and appurtenances attached to utility poles.

AT&T has entered into a Pole Attachment Agreement with National Grid and we have included a letter of authorization from National Grid to AT&T to submit the Application. For the proposed installation which is the subject of this request, National Grid requires that the pole



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selected by AT&T for the small cell facility be replaced due to leaning, space limitations, age or other physical conditions or limitations. The existing pole is 35'10" above ground level and the replacement pole will be 38'6" above ground level. The replacement pole complies with and is in accordance with the Act, the Order and state law.

We have also provided a detailed set of drawings (the "Plans") and map for this small cell facility. Additionally, we have provided photographs of a similar small cell installation installed by AT&T and located at 8 General Street, Lawrence, Massachusetts for use as an example. Also enclosed, please find a generic small cell facility report demonstrating compliance with applicable emissions standards established by the FCC.

AT&T proposes this small cell facility in the City of Lowell to deal with the rapidly increasing demands on AT&T's wireless network. This small cell facility will work in conjunction with the existing macro sites installed on rooftops, towers and other structures in and around the City of Lowell. AT&T's radio frequency engineers targeted the proposed location due to the high traffic and data demands on AT&T's network in these areas. AT&T's existing macro cell sites are not providing adequate data capacity near the Site due to population, vehicular and foot traffic, multiple wireless devices in use and other contributing factors. This small cell facility will work to offload the demands on the macro sites and allow for increased data capacity and speed within the immediate vicinity of the Sites and near AT&T's existing macro sites.

This small cell facility will be installed using standard commercially accepted methods in accordance with all applicable federal, state and local laws, regulations and orders. As depicted on the Plans, this small cell installation on the replacement utility pole will include: fiber optic cable(s); remote radios in a small equipment cabinet 39" in height by 23" wide by 15" deep (7.8 cubic feet in volume) mounted to the pole at least 12'9" above ground level; an unobtrusive pole top antenna measuring 25" long and 10" in diameter (1.132 cubic feet in volume); conduits and cable protectors; and, an electrical meter 8' above ground level with shutoff switch and grounding rod. The Plans also provide the proposed location, pole height, mounting height and equipment specifications.

#### The Telecommunications Act of 1996

Without the installation, AT&T would be unable to provide specifically established coverage and capacity objectives. The existing utility pole is located within the limited geographic area whereby AT&T's radio frequency engineers determined that a wireless facility is required. The Act imposes substantial restrictions affecting the standard for granting the requested relief. The Act provides that: no laws or actions by any local government or planning or zoning board may prohibit, or have the effect of prohibiting, the placement, construction, or modification of communications towers, antennas, or other wireless facilities in any particular geographic area, see 47 U.S.C. §332(c)(7)(B)(i); local government or planning or zoning boards may not unreasonably discriminate among providers of functionally equivalent services, see



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47 U.S.C. §332(c)(7)(B)(i); health concerns may not be considered so long as the emissions comply with the applicable standards of the FCC, see 47 U.S.C. §332(c)(7)(B)(iv); and, decisions must be rendered within a reasonable period of time, see 47 U.S.C. §332(c)(7)(B)(ii) and the Order commonly referenced as the applicable “shot clocks”. The FCC shot clock in this instance is ninety (90) days from the date of submission of the Application.

We respectfully assert that AT&T's proposed small cell facility is reasonable and reasonably complies with the requirements of the City of Lowell in light of the Act, the Order and state law. AT&T is willing to work cooperatively with the City of Lowell with respect the deployment of its small cell facilities and we look forward to your feedback. For the convenience of the City Council, AT&T has provided a proposed Form of Order for your consideration.

If you have any questions, please don't hesitate to contact me. We look forward to presenting the Application at an upcoming meeting.

Sincerely,

BROWN RUDNICK LLP

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Edward D. Pare, Jr., Esq.

Enclosures: Plans  
Structural Report  
Letter of Authorization from National Grid  
Photograph of Existing Small Cell Facility  
Emissions Report

**BR**

**ORDER FOR LOCATION FOR TELECOMMUNICATIONS WIRES AND WIRELESS  
ATTACHMENTS AND APPURTEANCES**

By the City Council

Of the City of Lowell, Massachusetts, \_\_\_\_\_, 2020

**ORDERED:**

That pursuant to the federal Telecommunication Act of 1996 and Massachusetts General Laws, Chapter 166, NEW CINGULAR WIRELESS PCS, LLC ("AT&T") is hereby granted a location for and permission to construct and maintain telecommunications wires and wireless attachments and appurtenances, including fiber optic cable(s), remote nodes and pole top antennas, to be attached to a National Grid utility pole, located upon, along and under the public ways within the City of Lowell, as substantially shown on the plans filed with said petition.

The forgoing permission is subject to the following condition: the telecommunications wires and wireless attachments and appurtenances shall be installed and operated in compliance with all applicable federal and state laws and regulations.

I hereby certify that the foregoing was adopted at a meeting of the City Council of the City of Lowell, Massachusetts, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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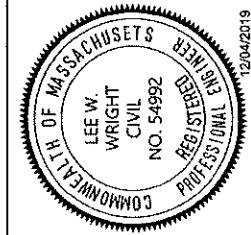
City Clerk







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2	Construction	9 JWW
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